

DRAFT

CITY OF NEWARK DELAWARE

PLANNING COMMISSION REVISED MINUTES

July 1, 2014

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: James Bowman

Commissioners Present:

Bob Cronin
Angela Dressel
Andy Hegedus
Edgar Johnson
Alan Silverman

Commissioners Absent: Patricia Brill

Staff Present: Maureen Feeney Roser, Planning and Development Director
Mike Fortner, Development Supervisor

Chairman James Bowman called the Planning Commission meeting to order at 7:00 p.m.

1. THE MINUTES OF THE JUNE 3, 2014 PLANNING COMMISSION MEETING.

Mr. Alan Silverman: I have a correction on page 11, my statement that says “stubble” should be “stumble.”

The minutes were approved as corrected.

2. REVIEW AND CONSIDERATION OF THE MINOR RESUBDIVISION OF THE 1.84 ACRE PROPERTY AT 218 EAST MAIN STREET AND SPECIAL USE PERMIT TO ADD FOUR APARTMENTS WITH FIRST FLOOR PARKING TO THE SITE.

Ms. Feeney Roser summarized her report to the Planning Commission which reads as follows:

“On April 2, 2014, the Planning and Development Department received applications from Agway Property Associates, LLC, managed by the Lang Development Group for the minor re-subdivision of the 1.84 acre property occupied by the Pomeroy Station mixed-use development at 218 East Main Street. Specifically, the applicants are requesting minor subdivision approval in order to add four three-bedroom townhouse style apartments with parking below to the existing subdivision at the site, which now contains a two story mixed use building with 14,500 square feet of retail space and 15 upper story apartments. The applicants have also requested the required special use permit for apartments in the BB zone. Please see the CDA Engineering Inc. minor subdivision and special use permit plan, building and elevation drawings and the supporting Lang Development Group letter.

The Planning and Development Department report concerning this minor resubdivision and special use permit request follows:

Property Description and Related Data

1. Location:

218 East Main Street, Pomeroy Station (tax parcel 18-020.00-244).

2. Size:

1.84 acres

3. Existing Land Use:

Currently the site contains a mixed use building with retail and office space on the first floor and 15 upper floor apartments, with accessory parking and an access driveway.

4. Physical Condition of the Site:

The Pomeroy Station site is a long, narrow developed property that from Main Street has the appearance of sitting behind the existing Bike Line store. Access to the site is from the Newark Shopping Center access drive to the north; and Main Street to the south. The southern access drive also provides egress from the site. In terms of topography, the relatively flat parcel slopes in general very slightly from south to north.

Regarding soils, according to the United States Department of Agriculture's Natural Resources Conservation Service and the applicant's plans, the site contains Urban Land (UP) complex soil. According to the Natural Resources Conservation Service, the soil is found at developed sites and does not have significant limitations for the development proposed.

5. Planning and Zoning:

The property is currently zoned BB (central business district). BB zoning permits the following:

- A. Retail and specialty stores.
- B. Retail food stores up to 5,000 square feet in maximum floor area, with special conditions.
- C. Restaurants, bakery and delicatessens.
- D. Banks and finance institutions.
- E. Offices for professional services and administrative activities.
- F. Personal service establishments.
- G. Studios for artists, designers, photographers, musicians, and sculptors.
- H. Repair and servicing, indoor and off-site of any article for sale, which is permitted in this district.
- I. Related indoor storage facilities as accessory uses with special requirements.
- J. Accessory uses and accessory buildings.
- K. Public parking garage and parking lot.
- L. Public transit facilities.
- M. Social club, fraternal, social service, union and civic organizations, except on ground floor locations.
- N. Photo developing and finishing.

BB also permits, with a Council granted Special Use Permit, the following:

- A. Retail food stores with more than 5,000 square feet in area.
- B. Drive-in and curb service for other than eating establishments.
- C. Fast-food restaurants with special requirements.

- D. Motels and hotels.
- E. Commercial in-door recreation and in-door theaters.
- F. Instructional, business or trade schools.
- G. Electric gas and telephone central offices and telephone central offices and substations with special requirements.
- H. Tower, broadcasting or telecommunications on existing buildings or structures with special requirements.
- I. Police and fire stations.
- J. Library, museum and art gallery.
- K. Church or other place of worship.
- L. Restaurant, cafeteria style.
- M. Apartments, except on ground floor locations, with special requirements.
- N. Restaurants with alcoholic beverages, with special requirements.

In addition, at Council's recent request, a summary of BB area requirements may be found below for your information:

Area regulations.

- 1) *Minimum lot area.* The minimum lot area shall be 3,000 square feet.
- 2) *Maximum lot coverage.* Buildings or other structures used exclusively for business purposes may occupy the entire lot, with conditions and subject to rear yard requirements.
- 3) *Minimum lot width.* The minimum width of a lot shall be 20 feet.
- 4) *Height of buildings.* Permitted uses in a BB district may be erected to a height of over three stories or 35 feet, with bonus floors for projects meeting certain requirements.
- 5) *Building setback lines.* No setback is required for all structures three stories or 35 feet in height or less. A 20 foot setback shall be required for all buildings above three stories or 35 feet in height.
- 6) *Rear yards.* A rear yard of 15 feet shall be provided for all structures in the BB district, and such rear yard may be used to meet the applicable parking requirement.
- 7) *Side yards.* No side yards are required for buildings up to 35 feet in height. For buildings with floors above 35 feet in height, a minimum side yard of eight feet is required when the property is contiguous to another lot in the same zoning district. When a side lot line forms the boundary line with any residential district, a side yard shall be required equal to the minimum side yard required for that residence district.
- 8) *Parking.* As required in Code Section 32-45.

Regarding BB area requirements the Pomeroy Station minor subdivision and special use permit plan meets all applicable Zoning Code requirements.

Regarding adjoining properties, the Pomeroy Pedestrian and Biking Trail is located immediately east of the site and is zoned PL. Further to the east, beyond the Trail, is the BB zoned Newark Shopping Center. The site is also bounded at its northern end by the N. Chapel Street access way to the shopping center. A small RM (multi-family dwellings/garden apartments) zoned apartment building is located further to the north along the access way to the shopping center. The BC zoned Bike Line store is located to the west of the portion of the 218 East Main Street site fronting on E. Main Street. A small BC (general business) zoned parcel adjoins the southwest corner of the site behind Bike Line and contains a small two-story building, with commercial uses on the first floor and upper floor apartments. The property across E. Main Street from the site is zoned BB (central business district) and contains the Main Street Court complex with first floor commercial uses.

Regarding comprehensive planning, Newark Comprehensive Development Plan IV calls for, "commercial (pedestrian oriented)," uses at the Pomeroy Station. In addition, while the site is located within the boundaries of the Downtown Newark Partnership, it is located within the Comp Plan's downtown development District 3 – mixed-use redevelopment district, which is defined as a "prime location for mixed

use redevelopment integrating convenience retail, services, offices and residential uses (both student and non-student housing affordable and market rate housing). Any additional apartments, however, must be carefully and closely evaluated in terms of their impact on downtown traffic and parking; their compatibility with existing downtown buildings in terms of design, scale and intensity of development; the contribution of the overall project, including proposed apartments, to the quality of the downtown economic environment; and potential significant negative impacts on nearby established businesses and residential neighborhoods. Beyond that, and particularly to encourage owner occupancy downtown, the City may consider reducing the permitted downtown density in projects in this district for residential projects.”

Regarding gross residential density, please note that the 218 E. Main Street minor subdivision and special use permit plan calls for residential uses at a density of 10.33 units per acre. By way of comparison with recently approved BB zoned projects along E. Main Street, please note the following:

<u>Development</u>	<u>Units Per Acre</u>
Newark Shopping Center	47.79
Kate’s Place and Choate Street Townhouses	25.02
Washington House	36.10
58 E. Main Street	44.28
102 E. Main Street	20.83
108 E. Main Street	14.71
129 E. Main Street	35.29

Based on recent discussions at both Planning Commission and Council meetings, the following density calculations are also provided. In terms of bedrooms per acre, the 58 bedrooms for the Pomeroy Station subdivision and special use permit plan calculates to 31.5 bedrooms per acre. For comparison purposes, other nearby and recently approved multi-unit developments have the following bedroom densities:

<u>Project</u>	<u>Bedrooms Per Acre</u>
Newark Shopping Center	95.6
Kate’s Place and Choate Street Townhouses	59.3
58 E. Main Street	95.3
102 E. Main Street	62.5
108 E. main Street	58.8
129 E. Main Street	105.9

Status of the Site Design

Please note that at this stage in the Newark subdivision review process, applicants need only show the general site design and the architectural character of the project. For the site design, specific details taking into account topographic and other natural features must be included in the construction improvement plan. For architectural character, the applicants must submit at the subdivision plan stage of the process color scale elevations of all proposed buildings, showing the kind, color and texture of materials to be used, proposed signs, lighting, related exterior features, and existing utility lines. If the construction improvement plan, which is reviewed and approved by the operating departments, does not conform substantially to the approved subdivision site and architectural plan, the construction improvement plan is referred back to City Council for its further review and reapproval. That is, initial Council subdivision plan approval means that the general site concept and more specific architectural design has received City endorsement, with the developer left with some limited flexibility in working out the details of the plan -- within Code determined and approved subdivision set parameters -- to respond in a limited way to changing needs and circumstances. This does not mean, however, that the Planning Commission cannot make site design or related recommendations that City Council could include in the subdivision agreement for the project.

Be that as it may, as you can see from the 218 E. Main Street minor subdivision and special use permit plan, supporting letter and building elevations, the proposal calls for the addition of four three-bedroom apartments with first floor parking, and two floors of living space above the existing mixed use development at the site. The plan also reconfigures the existing parking area and relocates the existing trash dumpster to accommodate the expansion. 100 parking spaces will serve the redeveloped site; a total of 98 are required.

Regarding the exterior architectural design, the Planning Commission should review the submitted elevation drawings provided. To evaluate the design, the Planning Commission should consult the design criteria in the Municipal Code, Chapter 27, Subdivision and Development Regulations Appendix XIII(d). In addition, please note that on a voluntary basis, the applicants reviewed the proposed architectural design with the Downtown Newark Partnership's Design Committee. At the meeting, the Committee recommended in favor of the design, but suggested the applicants use brick on the extension instead of the stucco originally proposed. The applicant subsequently submitted the revised elevations attached to this report.

Special Use Permit

Zoning Code Section 32-78, Special Use Permits, stipulates that Council may issue a special use permit provided the applicants demonstrate the proposed use will not:

- "A. Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- B. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- C. Be in conflict with the purposes of the comprehensive development plan of the city."

Please note that, while there are existing apartment units at the site, they were built before Council amended the Code to require special use permits for apartments in the BB Zoning District. Therefore, a special use permit is required for the proposed apartments in downtown.

Traffic

Even though this is a minor subdivision, because the development exits onto E. Main Street, the plan was sent to DelDOT for review and comment. DelDOT does not consider the plan a "change of use" nor do they believe the additional four units at the site will generate enough traffic, even with the combined existing uses, to impact traffic in the area.

Subdivision Advisory Committee

The City Subdivision Advisory Committee – consisting of the Management, Planning and Development and Operating Departments – has reviewed the proposed 218 E. Main Street minor subdivision and special use permit plan and has the comments below. Where appropriate, the subdivision plan should be revised prior to its review by City Council. The Subdivision Advisory Committee comments are as follows:

Electric Department

1. The service to new apartments must come from the existing switchgear. The developer will be required to pay \$600 for smart meters.
2. The developer must pay \$4000 for a new radio if the building expansion interferes with the smart meter system.

Parks and Recreation Department

1. No comments.

Public Works and Water Resources

Water

1. Individual meters will be provided for each dwelling unit. The developer will be responsible for the cost of the meters; City will determine the size needed.
2. All meters must be located in one or more centrally located meter room(s), readily accessible to the City of Newark.
3. The Developer will pay the Sewage Treatment Plant (STP) fee prior to receiving a Certificate of Occupancy (CO) for each unit.

Public Works

1. The proposed limit of disturbance is greater than 5,000 square feet and therefore, a stormwater evaluation is necessary as per the new regulations. A request for a Stormwater Assessment Study can be considered; however, as the site's overall imperviousness will increase with the proposed development, both stormwater quantity and quality evaluations will be necessary prior to review by City Council.

Planning and Development

Planning

1. The Planning and Development Department notes that the proposal conforms to the Comprehensive Development Plan IV and meets all area requirements for the BB zoning district.
2. The Department notes that the plan title should be revised to read Minor Subdivision and Special Use Permit Plan. In addition, the Department notes a Certificate of Plan approval should be included on the plan including a signature line for the City Manager, the Planning and Development Director and the City Secretary. Finally, there should be a "Purpose of Plan" note. These revisions are necessary before Council review.
3. The Department notes that all conditions of the agreement between Lang Development Group LLC and the City of Newark dated September 25, 2002 will still apply to the site. An addendum to it covering the revised plan will be prepared prior to City Council consideration.
4. The Department notes that the original subdivision plan did not limit the number of occupants in the 15 existing apartments at the site. However, based on recent Council action regarding the approved subdivisions downtown, the Department recommends an occupancy limit of four unrelated individuals per unit for the four new units. This occupancy restriction will alleviate concerns previously raised regarding the definition of the bedroom and the potential for developers converting study or den space into bedrooms after Certificate of Occupancy has been issued. How this restriction will be memorialized will need to be determined. The Commission may wish to discuss these occupancy restrictions with the applicant at the meeting.
5. The Planning and Development Department suggests that the Planning Commission consider the following conditions of subdivision approval:
 - The architectural design for the proposed building should be carried on all portions of the facility visible from public ways and parking lots.
 - Mechanical equipment and utility hardware should be screened from public view with materials harmonious to the proposed architectural design for such equipment shall be located so as not to be visible from adjoining streets of public right of ways.
 - Any exterior additional exterior lighting should be designed as an integral architectural element of the proposed architectural façade.
 - Units should be designed so they can be easily converted into condominium unit should market conditions change.

6. The parking spaces located under the new apartments are double stacked, as are the spaces immediately to the north of the proposed addition. The total number of double stacked spaces (26) exceeds the number required for the additional apartments (8), but because of the double stacked design, they are not suitable for commercial parking and therefore, must be assigned to the residential units at the site only. Again, the Commission may wish to discuss these parking arrangements with the developer at the meeting.

Code Enforcement

1. The Code Enforcement Division of the Planning and Development Department indicates the building should be designed and constructed in accordance with the ICC Codes as amended, in effect at the time of submittal for review. The project will also be required to meet the IFC and the Delaware State Fire Code, whichever is more restrictive.
2. The Division notes that two complete sets of architectural/structural drawings with details and sections are required to be submitted for construction review.

Recommendation

Because the project conforms to the land use guidelines in the Comprehensive Development Plan IV, because the minor subdivision and special use permit plan, with the Subdivision Advisory Committee conditions, will not have a negative impact on adjacent and nearby properties, because the proposal meets all applicable Code requirements and because the proposed plan does not conflict with the development pattern in the nearby area, the Planning and Development Department suggests that **the Planning Commission take the following action:**

Recommend that City Council approve the 218 East Main Street minor subdivision and special use permit plan as shown on the CDA Engineering, Inc. Plan dated March 27, 2014, with revisions through May 15, 2014, with the Subdivision Advisory Committee recommended conditions.”

Ms. Feeney Roser: I will be happy to answer any questions the Commission may have for me and the applicant is here.

Mr. Jeff Lang: Lang Development Group. Pomeroy Station and Madeline Crossing, which you reviewed last meeting, were my first two projects when I started the company. At the time we started this project, obviously, we weren't as aware of the need and/or the demand for this type of density in our downtown area. Obviously, this project was done at a long, linear site. We put a large retail building which has been very successful. There are many very good and continuing uses there – Ski Bum – it also housed Newark Post over the years and a number of other very good retailers, and we had a variety of units here – two, three and four bedrooms. This project presently has six four-bedroom, five two-bedroom and four three-bedroom units. We were looking at the density at this site. We actually have additional parking. We thought about adding additional retail space and/or adding apartments. We really designed the building with convertibility of the lower space even though it is parking presently, it is going to have the floor to floor for the balance of the building. If parking does become available in a municipal lot and there isn't as much of a demand for parking by our residents or other businesses, we could convert the lower space under the new four three-bedroom apartments.

Getting back to the density mix, we actually have a tremendous demand for this product at this location. It is convenient, although it is not in the center of town, a lot of residents like its proximity to downtown, but still has a nice parking area with easy access and is right next to the Newark Shopping Center. We think it is a very small yet very nice addition to this building. When we went to the DNP Design Committee, their comments were that the architecture was appropriate and our architect, who is unfortunately not here tonight, was trying to integrate a different type of material with a stucco look. After talking to the Design Committee and thinking a little more about it, I think the full brick design and the coining with the stone really, in five years from now,

will look like an expansion of the original building. You probably won't know it is an extension.

I think this end of the site also, with whatever is going to happen in Newark Shopping Center and the other two commercial buildings farther down and adjacent to our site, this might be a more vibrant area, too. We really think the small addition on the end of the building is a nice asset to the community. The overall density of the site is still very, very low in comparison to a lot of projects. I think the site now has a little over 8 units per acre and we are moving it up to around 11, and as Maureen stated there are many projects of much higher density. Even our bedroom count is much lower. I still think it is a very logical small addition to an existing project. Many times, when you are looking at a little addition to your house, you are looking at the addition as an asset. We look at these as assets. We think about it and say how can we enhance the value for the community as well as ourselves and will it be absorbed and will it be used. All of our thoughts lead to this being a logical addition.

The majority of Maureen's comments, obviously, we agree with. One that we want to discuss at a little more length tonight is the density restriction. Obviously, we have an existing lender. I think Chris spoke about it last time. We have loan documents that don't have restrictions and you try to introduce restrictions into a portion of a project, why would it be warranted. There are no problems with the units now, no problems with overcrowding here, the Police, obviously, don't have any issues with this type of product. It is really just an issue of why do we need to have a restriction. Obviously, we, as a developer, don't think you need to. I think it is an unnecessary regulation. I think it is hard to enforce and it is difficult to get a lender to understand.

The other thought about this design which we didn't talk much about and is not necessarily atypical of a lot of projects, but we have individual entrances to our apartments from the street. So, we don't have common hallways in this project. It has been very well received. It is basically, you park your car, you come up to your door and you go in your door and you are in your unit. This has a shared walkway up and there are two units off of each walkway. We have very few maintenance issues with this type of building. We have very few calls from the Police Department. We have very few party issues. So, I think it is a very good product and I think, again, a nice addition to the building. I will be here for any questions.

Mr. Bowman: Are there any questions for the applicant from members of the Commission?

Ms. Angela Dressel: I have a couple of questions concerning the parking. You just mentioned that the garage area could be converted into a store area.

Mr. Lang: Obviously, it is required parking for the project presently, but typical parking areas wouldn't be designed at 15 feet floor to floor. So, the width and height of the area that is going to be used for parking could easily be converted to retail or office space if additional parking was available either in the community as a whole or on our site. So, it gives you that flexibility. We talk about this all the time when we do projects. And, I think it is a continuing trend and we need to make sure that we build buildings that are reusable in some form, be it either from parking to commercial, which you see in some areas; or, residential to commercial or commercial to residential. So, really, what I was highlighting there was the fact that we weren't building a parking garage that is going to be a parking garage forever. It could be forever but it might not be. If, for some reason, we acquired a larger site or the Newark Shopping Center builds additional parking that they don't need and the community leases it or the City builds a garage over on Lot #5 and they are under subscribed and we say we have 24 residents that might want to park over there, we could convert some of the residential parking on site to off-site and utilize that lower level as a commercial business, which is really what we need to think about as a group as we move forward with development.

Ms. Dressel: I don't remember reading about that in here, but I think that it is nice to know that there is an alternative plan or thought process in place.

The other question I have is, I'm struggling with understanding the – and Maureen, maybe this is a question for you – number of parking spots under the building stacked and how they would only be used for the residents if they were only attached to these four townhouses?

Ms. Feeney Roser: Right now there are spaces in the parking lot – and correct me if I'm wrong, Jeff – that are assigned to specific apartment units. So, what you would do because you need two per unit for the number of bedrooms in these is that two stacked parking spaces would be assigned to one apartment (perhaps the apartment above it) and two stacked spaces to another apartment so one apartment was not blocking in another, and the stacked spaces would only be for residential use, so commercial parking would not be impacted by stacked parking.

Mr. Lang: Like having a two-car garage that is not wide so you would have to get your car out or your roommate's car. It actually works very well. We have a similar parking at 132 E. Delaware Avenue under our building and it is 10 double stacked spaces and you give two to each apartment.

Ms. Dressel: But, these apartments aren't necessarily attached to the new section.

Mr. Lang: No there will be other units that will have parking underneath that area also.

Ms. Dressel: Is there access from the garage directly to the new apartments?

Mr. Lang: No. Everyone has to come out of the garage area and go to whatever door they go to.

Ms. Dressel: I didn't understand that.

Mr. Lang: It is a little complicated when you read it and you can't see it.

Ms. Feeney Roser: It is complicated to write it, too.

Mr. Silverman: Have you given some thought to providing pedestrian access to the Pomeroy Pedestrian and Bike Trail, particularly since the shopping center design now projects a pedestrian walkway through that?

Mr. Lang: Actually, we have but we have not formalized it. We met with Charlie Emerson (Parks and Recreation Director) awhile back about how to provide access, whether it is a sidewalk from. It was designed and I thought it was going to be built a long time ago because it was supposed to happen around where Rita's is, cross down into the Pomeroy Trail and up and then across and all the way over to Bike Line right by the transformers. So, it isn't shown on our drawing but we worked with the Parks and Recreation Department with a design and potential installation. It is a good point that you brought it up because we haven't followed through on whether it is going to get built or not and why it didn't get built. But, we are more than happy to include it.

Mr. Silverman: If you would at least make the effort to contact Parks and Recreation to see if any coordination can be made.

Mr. Lang: I think it is a logical formal connection. There are many informal connections across that grass area to the trail, but I think a formal connection area would be good with paving and curb cuts and that kind of thing.

Mr. Silverman: I also realized that this is a resubdivision of an existing plan, however, the notation that exists on the citation for the two-story building says, "roof drains to connect the (inaudible), will that occur with this existing building, too?"

Mr. Lang: It will continue.

Mr. Silverman: So, there is no surface discharge to deal with here.

Ms. Eileen Thorp: (Inaudible) Not at microphone.

Mr. Silverman: I did find the drawing a little confusing and the explanations did help. However, the area that is shown to the north of the end of the new building, are they double stacked parking spaces or are you going to be eliminating (inaudible) parking spaces?

Mr. Lang: No, they are double stacked again.

Mr. Silverman: So, the number 21 refers to the 21 parking spaces in the existing bays.

Mr. Lang: Right.

Mr. Silverman: And then, there should be a similar reference to the five new additional parking spaces in the new bays.

Mr. Lang: I think that 21 amount includes the 5. It is 16 and 5.

Mr. Silverman: That was not clear in my mind the way it was laid out.

Ms. Thorp: We actually eliminated some spots in order to build that expansion.

Ms. Feeney Roser: Excuse me, Eileen, would you put your name on the record please.

Ms. Thorp: Eileen Thorp, CDA Engineering. That expansion is taking over some of those existing parking spots. When you add up the double stacks and what is to remain, it is still 21, but if you would like, we can add a notation and correct it.

Mr. Silverman: Are those seen what was formerly there?

Ms. Thorp: Actually, it is dashed in the building footprint there.

Mr. Silverman: I've lost that in the stairways.

Mr. Lang: They are all kind of on top of each other. It would be nice if there was existing and then the new. (Inaudible).

Mr. Silverman: With respect to the arches that are shown on the color handout, are those arches going to remain open?

Mr. Lang: For the parking area?

Mr. Silverman: Yes.

Mr. Lang: They are going to remain open.

Mr. Silverman: So, there will be open arches.

Mr. Lang: Yes, from an architectural perspective, you need X amount of ventilation when you have parking under a building so you need to have the front of it open and part of the back of it open. But, we designed the back of the building and the front of the building so if we ever wanted to put storefront and windows in, it would be easily converted to that. So, the openings in the back fit the window pattern of a commercial space and the arch, in theory, could be matched up against the other arches that exist.

Mr. Silverman: I understand what you are doing, but some applicants literally put garage doors in those openings and you didn't say one way or the other on any of the drawings how you were going to handle that. The only other questions I have, I don't know whether it is under our purview or the City Building Department, is there security lighting during the night time?

Mr. Lang: There is existing lighting on the site and we may add an additional light when we see how this impacts whatever lighting exists, but we do have site lighting and we do have lighting in the back of the buildings. So, we will continue to do that and expand that, potentially, depending on how this works.

Mr. Silverman: Maureen discussed in her review wash lighting to show off architectural design, and I didn't know if security lighting was included in that and I would add that all efforts should be made so that the wash from the lighting does not disturb the existing uses off site, particularly with that very, very narrow side yard.

Mr. Lang: There is a tremendous amount of vegetation along the back of our building and our adjacent parcel, but we do have accent lighting on the stone coin corners and we do have some, I think, to be very nice site lighting that produces pedestrian lighting for walking. We do have the security lights in the back of the building where you have a small alleyway.

Mr. Silverman: Maureen mentioned in your information column where you identified Pomeroy Station, I would like to see a microfilm number referencing former plans shown on there. It makes it easier for people who are doing research to know that the new proposal is merely a child of this existing plan.

Mr. Bowman: What is the current percentage of occupancy in your commercial space in that building, just out of curiosity?

Mr. Lang: 100 percent.

Mr. Bowman: How about the number of occupants per bedroom in the existing apartments?

Mr. Lang: It is already filled. I don't actually know.

Mr. Bowman: Do you have onsite management on this one or not?

Mr. Lang: No, It is not warranted for this size of a building given the fact that there are all separate entrances. It is more of an exterior walkup. I think you mandate more of an onsite premise when you have a lot of common hallways and common access points, fitness centers and things like that. Our office is less than a quarter mile away from there. We are available. We have 24 hours maintenance assistance. No, we don't have fulltime onsite management.

Mr. Bowman: If there are no further questions from members of the Commission, we will open it up to the public. I have no written requests, if anyone else wishes to comment, please step to the microphone and state your name and address.

Since there are no comments from the public, we will bring it back to the table for a recommendation from the members of the Commission.

Ms. Dressel: I'm going to go back to point #4 on page 7 which the Department made and that is recommending the limit of individuals per unit. I recognize that the rest of the building does not have that, however, we have made it a pattern on Main Street to have that and I think that it is important with new projects going forward to have that limitation because, as Jeff explained, his company isn't having this issue, however, we don't know that this property would remain in his development company forever and it seems to me that it would make sense to have the recommendation for a restriction to a number of tenants per unit.

Mr. Bowman: I am still looking for a motion one way or another in general.

MOTION BY DRESSEL, SECONDED BY SILVERMAN, RECOMMEND THAT CITY COUNCIL APPROVE THE 218 EAST MAIN STREET MINOR SUBDIVISION AND SPECIAL USE PERMIT PLAN AS SHOWN ON THE CDA ENGINEERING, INC. PLAN DATED MARCH 27, 2014, WITH REVISIONS THROUGH MAY 15,

2014, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS, INCLUDING #4 ON PAGE 7 THAT THERE BE A RESTRICTION ON THE NUMBER OF OCCUPANTS PER UNIT OR PER BUILDING.

Mr. Bowman: Is there further discussion from members of the Commission?

Mr. Johnson: I think it is problematic if this is going to be one building, to have one part of the building with the restriction and the other part of the building with no restrictions. I do believe at a meeting last time or the time before, we had this same discussion about the same issue that the existing buildings had no restrictions on the occupants per bedroom or per unit, and I think it is difficult to have some part of the unit with the restrictions and some without. I just think the units should be the same. I understand what the Department is trying to do, but this is not a completely new project. It is an addition to an old project.

Mr. Andy Hegedus: I would like to pitch into that as well. My concern with this project is exactly the same as I stated with Madeline Crossing last month, where it requires a special use permit and one of those items is that it has to be not in conflict with the purpose of the Comprehensive Development Plan and what our goals are. Just to pick a very simple example, but we have all these goals about economic development (Note: Mr. Hegedus is referring to the Comp Plan draft) and lots of housing for different age spans and this is clearly student housing, and one of our actions items in our Plan that it looks like we will be talking about tonight is, for instance, exceed US and Delaware Forest Service calculation of 30% as a minimum healthy tree canopy coverage within an urban area. So, if you extend this building further and you are going to take down parking spaces and other vegetation that is there, that goes against that little goal. So, there are a lot of things in the Plan that simply an expansion without a commensurate improvement that goes with it like, my example last time was One South Main. There were two old buildings that were taken down, a beautiful building going up. So, that helps the community overall. Honest to goodness, I am still unclear how I'm voting because this is really a very small addition. I will decide here in a couple of minutes. So, that is more my issue than it is the deed restriction on this particular property. That is the part I am wrestling with.

Mr. Bowman: Is there anyone else for discussion.

Mr. Silverman: Maureen, do we have any direction or clarification from Council on how to handle this? Have there been instances where the Commission has said no and the Council has said yes or vice versa?

Ms. Feeney Roser: Yes, there have been instances where Council and Commission differed on a particular project, and I don't know that you have gotten a directive one way or another from Council on occupancy. The point in my report is simply says that this is the direction that Council has taken with other projects. Since it has been done to others, we should treat everyone the same. That is basically it. Council always talks about occupancy but they don't consistently enforce that. I think each development's consideration is based on its own merits.

Ms. Dressel: I go back to yes, this is an existing building, however, there is a relatively major addition being put onto it and obviously things have changed since the building was originally built. It seems to me it would be much more consistent to have that restriction on the development.

Mr. Cronin: I guess I am wondering if any thought has been given to a way a restriction might be memorialized or fit into the process as an alternative to not having it. Have you given any thought to that in case the Commission or the City did insist on that?

Mr. Lang: There are really a couple of issues. I can bring one of them up as it relates to enforcement and/or continuing down the road. We are talking a year from now saying which units does it apply to, five years from now, who actually remembers which units it applied to. I have an existing loan and the lender has no restrictions in our loan documents, I have to explain to the lender which portion of which building, and even

more practically speaking we have three bedroom units in this building. These are not four, five, or six bedroom units. We are talking about three-bedroom units. I might have a three bedroom unit where there are four kids it and I may have a three bedroom unit that might have five residents and they want to move from one unit to another. Well, they can live in this unit but they can't live in this unit. How do you understand all that? From a deed restriction perspective, how do you partially deed restrict a portion of a new to-be-built building. I'm not an attorney, but I don't think it is an easy thing to memorialize. And, getting back to Angela's perspective, do you need to deed restrict a smaller project or are you really more concerned about overcrowding in a big large project that creates public nuisance. If one of these units has five people in it, would I even know let alone the rest of you guys know. I think our concern is about having a large project built that has unrestricted limitations on density and there are 500 people living in the same place. Here, we are talking about 4 units that could have a three-bedroom unit. What is the most a three-bedroom unit could have? Four or five people in it? So, you say you have five people in the unit, it is not like we are going to have a public issue by allowing more people. So, if the restriction was originally imposed on the entire project, then it should potentially continue to be imposed on this project. But, there was never one on the project and you are going to try to impose a restriction on a portion of the new piece that is actually not even bigger than some of the units that already exist there. That doesn't seem to make a lot of sense to me to try to have a limitation on four additional units due to their size. Maureen struggles with enforceability and you have Code Enforcement Officers running around trying to understand how many people live in a house. How are you going to try to figure out how many people are living in this unit that is on the end of Pomeroy that just got expanded. I think from a practical perspective, restrictions don't make a lot of sense in smaller projects. They might make sense in a larger project where you worry about 200 units being built. How many people are going to be living there? If there are unrestricted limitations on 200 units, you could have 1200 people, which Council pointed to when they review one of the projects directly adjacent to this area. But, it was due to the size of the project. This is four units. As its own little building, I don't anybody would think about the restriction. So, why do we want to impose the restriction on another building like Edgar was talking about?

Vote: 1-5

AYE: DRESSEL

NAY: BOWMAN, CRONIN, JOHNSON, HEGEDUS, SILVERMAN

ABSENT: BRILL

MOTION FAILED

MOTION BY JOHNSON, SECONDED BY SILVERMAN THAT THE PLANNING COMMISSION MAKE THE FOLLOWING RECOMMENDATION TO CITY COUNCIL:

RECOMMEND THAT CITY COUNCIL APPROVE THE 218 EAST MAIN STREET MINOR SUBDIVISION AND SPECIAL USE PERMIT PLAN AS SHOWN ON THE CDA ENGINEERING, INC. PLAN DATED MARCH 27, 2014, WITH REVISIONS THROUGH MAY 15, 2014, WITH THE SUBDIVISION ADVISORY COMMITTEE RECOMMENDED CONDITIONS, WITH THE EXCEPTION OF IMPOSING OCCUPANCY LIMITS ON THE NEW UNITS.

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Mr. Cronin: What were Mr. Silverman's remarks? I couldn't hear that.

Mr. Silverman: We made some comments as a group – additional information required on this plan document and they should also be incorporated into the motion.

Ms. Feeney Roser: Which would include the connection to the Pomeroy Trail, and having a microfilm reference number.

Mr. Silverman: And explaining and documenting the parking changes and locations.

Mr. Cronin: Does Edgar have to agree with that because he made the motion?

Mr. Johnson: I agree with it. That's fine. I just want to make sure that it is understood that there is no limit on the number of individuals per unit, which the failed motion referenced.

Mr. Bowman: Is there any further discussion of clarification of the motion. Okay. We will call for the question. All in favor of the current motion, please signify by saying aye and raising your right hand.

VOTE: 5-1

AYE: BOWMAN, CRONIN, JOHNSON, HEGEDUS, SILVERMAN
NAY: DRESSEL
ABSENT: BRILL

MOTION PASSED

3. REVIEW AND PUBLIC HEARING OF THE NEWARK COMPREHENSIVE DEVELOPMENT PLAN V.

Mr. Mike Fortner: Development Supervisor for the Planning and Development Department.

Before you, you have the final draft of the Comprehensive Development Plan for the City, which was started at Newark Day on June 2, 2012. We continued the introduction process at Community Day that same year as an outreach effort. We tried to educate and inform the community about the comprehensive planning process, why it was important and did some initial outreach about what their thoughts were. By October, we came out with what we called "The Plan for Planning," and it had an outline of how we would proceed with a list of our stakeholders and the process we do, plus our goals. We wanted a process that was stakeholder driven. We wanted it to be transparent. We wanted the community to get involved. Beginning in October, we had a series of workshops. We started out by doing SWOT (strengths, weaknesses, opportunities and threats) analysis. We had a series of neighborhood committee meetings. We had meetings on transit – bicycle and pedestrian issues and opportunities – which led to the development of the Newark Bicycle Plan. We did an open workshop on each element of the Plan with public participation – transportation, economic development and so on. Then we had Planning Commission meetings where we took it Chapter by Chapter. These meetings were open to the public and they had time for public comment at all those meetings.

The Comprehensive Development Plan has key features. First of all, we restructured the plan to have 12 chapters, each covering an element of the Plan, which is unlike the Comp Plan IV that we did before. This was the first plan to articulate a direct analysis on what it means to be a college town. We recognized two things. We recognized that we are a college town and that we are also a hometown. So, our community profile is called "Hometown/College Town." We had specific analysis on Newark and what it means to be a college town and how that makes us unique as a community and how we fit into that; and, also the balance between Newark, the college students and the University and the people who grew up here, live here, work here and the broader community, and the balance in that relationship. This is also the first plan to clearly articulate a vision for itself. Our previous plans have had a vision, but this one tries to articulate it and make it a very specific thing. Through the process, we had three aspirations – a healthy and active community; a sustainable community, both environmentally and economically; and an inclusive community. Newark is a place for people of all ages – college students, young people, retired people and young families and old families.

Comprehensive plans don't have to be strategic, but we've made this more of a strategic plan as well. Comprehensive plans are supposed to be broad trying to articulate where we want to go as a community. We put a lot in this plan where there is kind of a strategic plan. So, we have the vision and articulated what the scope of what that vision means and how that relates to each of the elements in our Comprehensive Plan –

transportation, environmental quality, etc. Then we have strategic issues for each element where we identify the element and how it relates to the vision. Each chapter is a descriptive guide for how city services are implemented to reach the vision, and finally, for each chapter we have goals and what we call actions items (things we want to get done). This is very different than the previous Comprehensive Development Plan where we didn't clearly articulate what we want to achieve. This is a very forward looking plan. I hope that the reader and the public will be able to look at it and see where we want to be in five years and how this Plan will help us get there. The Plan also attempts to be proactive on how we address planning issues. When we look at places like Newark Country Club and College Square, instead of waiting for a proposal to come to us, we should try to get ahead of it and think more strategically in our planning – getting ahead of the issues rather than waiting for a proposal. That is what we have come up with.

The Plan has been online. We have had numerous public meetings. We have had seven iterations of the Plan posted on the web and seeking public comment and updated after public meetings. It has been a big broad community attempt to make a plan. We have had over 400 unique participants in this process. Dover did a very major update to their comprehensive plan and they talk about how successful they were in public outreach; having 100 people participate in their process. So, it was a very ambitious, successful public outreach effort. We did e-newsletters and other things online to reach people.

That is the plan you have before you. We will open it up for any questions or public comment.

Mr. Bowman: Are there any questions from members of the Commission to start with.

Mr. Hegedus: You had a meeting before this meeting. Were there any comments from the meeting before this that would change anything we have in the Plan in front of us?

Mr. Fortner: No, we had a total of four people who came. I had four very good conversations. The first lady was concerned about all the rentals coming up. I explained about how much is too much and the Study. I also explained some things about mixed use and how those are attracting students and how we want to preserve the single family neighborhoods and showed her some of our strategies and talked with her about it. She was very enthusiastic. She lives in District 4. We had another lady that was concerned about the Newark Train Station. She had been coming to the Council meetings and was concerned that it was dead. I showed her the Comprehensive Plan and how that was going forward and how we hope to improve services there. We also had a gentleman who was a big bicycle advocate and transportation advocate and he wanted to move to Newark because he wanted to be able to ride his bike to work.

The two big issues that we talked about tonight were student rentals and transportation. When I talked to the folks about the Plan they were all very satisfied with what we were doing.

Mr. Hegedus: What are you looking for from us tonight?

Mr. Fortner: A recommendation to present the Plan to Council with any additional comments you would like to make.

Ms. Dressel: Mike, I just want to thank you for all the work that you have put into this. You have been, obviously, spearheading this and made a really amazing effort at outreach and communicating with us. So, thank you very much.

Mr. Fortner: Thank you.

Mr. Cronin: Are we supposed to have the whole Plan before us in our packet.

Mr. Fortner: I gave you the Plan last time and I sent you some chapters with revisions. Those were minor revisions from the editor. There are some corrections on the maps.

Mr. Cronin: I have looked at different sections over different points of time. But, every instance where we refer to the Christina Creek, I think it should be the Christina River because that is the name of the body of water from start to end and this was corrected in one of the earlier iteration of Comp Plan II or III.

Mr. Fortner: It was corrected in Comp Plan III and then in Comp Plan IV, if you look at that, it wasn't corrected. When you did your edit I made all those changes, especially the Christina Creek/River.

Mr. Cronin: We still have Christina Creek here in Chapter 10.

Mr. Fortner: You still see Christina Creek?

Mr. Cronin: I do, on page 122. White Chapel is spelled as two words one place and one word in another place. I guess I have an eye for some of these things. And, I tend to think that when we talk about our adult communities, I would prefer to see it 55+ as the name we give it because I think that is what we intend to convey and that is what we use in the real estate sector, which I am obviously part of. The average reader is going to think it is anybody is going to think it is 18 or 21 or over unless they are into planning and real estate. I think 55+ is more descriptive of what we intend to convey and communicate.

Mr. Fortner: The actual zoning is called adult communities. I may have referenced it in that. There was a place where we did change it to 55+. We were just talking about that in general. I tried to change it there, but there could be some references where we are just talking about the zoning, AC – adult community, because that is the name of the zoning. I agree with you, 55+ is a little more descriptive. In the narratives in the beginning, I could change it where you noted.

Ms. Dressel: Except if our zoning says AC for adult community, it seems to me that it makes sense to keep it consistent.

Mr. Fortner: It should be AC for adult community. I only change it in reference to a general sense – zoning for places where over 55 is.

Ms. Dressel: And, I think that a lot of things we are reading now a days, it says active adult community as opposed to the 55 and older.

Mr. Cronin: I was just trying to suggest something that is perhaps more descriptive and definitive for the reader.

Mr. Bowman: These are relative editorial changes and it certainly won't change the context of the document as a whole.

Mr. Hegedus: I want to echo thanks for all the effort and outreach. I know it meant a lot of late nights, sometimes having meetings, standing alone and waiting for public to show up and other times having lots and lots of people banging on your door. So, it can be both frustrating and rewarding. Thank you for all the time and effort you put in.

Mr. Fortner: You are welcome.

Mr. Bowman: This is the third one of these I have been through and certainly has been far more open and inclusive and extensive process than the others; and, again, I would like to also echo all the work you have done, Mike, and the staff in general has done and also, the members of the Commission and public who participated in this for close to two years now. We appreciate all that work.

Mr. Fortner: Thank you.

Mr. Bowman: If there is no more discussion from members of the Commission, is there anybody from the public who wishes to step to the microphone and address the proposed revisions to the Comprehensive Plan to now be called Plan V?

Hearing none, I will bring it back to the table for a recommendation from the Commission.

MOTION BY DRESSEL, SECONDED BY HEGEDUS, THAT THE PLANNING COMMISSION RECOMMEND THAT CITY COUNCIL APPROVE NEWARK COMPREHENSIVE DEVELOPMENT PLAN V.

VOTE: 6-0

AYE: BOWMAN, CRONIN, DRESSEL, JOHNSON, HEGEDUS, SILVERMAN

NAY: NONE

ABSENT: BRILL

MOTION PASSED UNANIMOUSLY

Ms. Feeney Roser: I wanted to mention that tonight is Angela Dressel's last meeting as a Commissioner from District 6. Angela was kind enough, even though she had resigned at the end of last month, to extend her time with us so that she could see the Comprehensive Development Plan through. We really appreciate that and we appreciate all of your years of dedicated service to this Commission and to the community. So, on behalf of the City and particularly, the Planning and Development Department, thank you, Angela, for all your service.

Mr. Bowman: With that, the meeting is adjourned.

There being no further business, the Planning Commission meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission

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